IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.210 OF 2005

Nitin B. Gandhi. ... Petitioner.

vs.

Cydal Investments Pvt.Ltd & others. .... Respondents.

Mr.V.Singh i/b. S.R.A.Shaikh, for Petitioner.

Mr.S.S.Purohit i/b. Purohit & Co., for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 18th July,2005

P.C.:-

1. The Appellate Bench of the Stock Exchange has dismissed the claim made by the petitioner by drawing inference from the conduct of the petitioner. The Appellate Bench has held that the petitioner himself being a broker knew that at the relevant time the Bolt of Ramesh Sheth was closed and was not operating. Therefore, it cannot be believed that the petitioner who is a broker on the Stock Exchange, himself will continue to advance money to Mr.Ramesh Sheth as a security deposit towards the transaction in the stock

exchange, and therefore, the Appellate Bench has held that it was a loan transaction and not a transaction in the securities. The Appellate tribunal has also held that the conduct of the petitioner of not proceeding against Mr.Ramesh Sheth under Section 138 of the Negotiable Instrument Act when the cheque given by him from his personal account towards the repayment of the amount bounced. From this conduct, the Appellate Tribunal has drawn inference that the petitioner was in hand in glove with Mr.Ramesh Sheth. He waited till the Exchange Card of Mr.Ramesh Sheth was transferred to present Respondent no.1 and then made a claim. The conclusions that have been drawn by the Appellate Tribunal are essentially the findings of facts. They are based on the knowledge of the Appellate Tribunal of the transaction on the Stock Exchange and conduct of the parties. In my opinion, it cannot be said that the conclusions that have been reached by the Appellate Tribunal are impossible to be reached in the facts and circumstances of the case, and therefore, the Award impugned in the petition cannot be set aside. The petition is rejected.